

New Zealand Report ILAG Ottawa June 2019

1. Country Details

Name	New Zealand
Population	4.9 million Statistics New Zealand downloaded 24 May 2019
GDP	\$NZ293 billion / \$US197 billion as at December 2018 Statistics New Zealand downloaded 24 May 2019
Poverty line	<p>There is no official poverty line measure in New Zealand. Child poverty is measured against 10 different measures. No overall indicator is derived. Instead each of the measures is tracked from year to year to validate whether child poverty is increasing or decreasing. By way of example, in the year ended June 2018:</p> <ul style="list-style-type: none">• 16 percent of children lived in households with less than 50 percent of the median equivalised disposable household income before housing costs are deducted.• 23 percent of children lived in households with less than 50 percent of the median equivalised disposable household income after housing costs are deducted.• 13 percent of children lived in a household experiencing material hardship, which indicates that they are missing out on more than a handful of things that could be expected in a typical household. <p>Statistics New Zealand downloaded 24 May 2019</p>
Practising lawyers	13,087 New Zealand Law Society downloaded 24 May 2019

2. Legal Aid Organisation/Authority

Name	Ministry of Justice
Status	<p>A government department</p> <p>Granting decisions are made by a statutory officer who is employed by the Ministry of Justice but makes granting decisions independently of government.</p> <p>The Legal Aid Services unit and the Public Defence Service are separate groups within the Ministry.</p>
Delivery method	Criminal legal aid is delivered by a mix of private and public. The Public Defence Service aim to accept around 50% of cases in the main urban areas.
Legal aid lawyers in private practice	2,024 private legal aid providers as at 31 March

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	589 approved to provide civil legal aid services
	1,244 approved to provide criminal legal aid services
	1,102 approved to provide family legal aid services
Public Defence Service	165 lawyers providing criminal legal aid and initial advice services
Payment methods	Most criminal and family law cases are subject to fixed fee schedules. The more complex cases and most civil (non-family) cases are paid on an hourly rate basis.

3. Budget and Spend:	2017/18		2016/17	
	\$NZD	\$USD	\$NZD	\$USD
Budget (private lawyers)	\$161,670,000	\$109,337,421	\$152,729,000	\$103,290,623
Actual (private lawyers)				
Civil legal aid	\$5,748,427	\$3,887,661	\$5,599,516	\$3,786,953
Criminal legal aid	\$81,093,364	\$54,843,442	\$68,794,351	\$46,525,620
Family legal aid	\$45,152,410	\$30,536,575	\$42,398,847	\$28,674,340
Waitangi Tribunal legal aid ¹	\$15,871,030	\$10,733,578	\$15,487,388	\$10,474,121
Duty lawyer ²	\$10,604,938	\$7,172,120	\$10,697,792	\$7,234,917
Police detention legal assistance ³	\$438,394	\$296,486	\$360,936	\$244,101
Family legal advice service ⁴	\$1,160,760	\$785,022	\$1,047,073	\$708,135
Sub-total initial legal advice services ⁵	\$12,204,092	\$8,253,627	\$12,105,801	\$8,187,153
Grand total (private lawyers)	\$160,069,323	\$108,254,883	\$144,385,904	\$97,648,187

Public Defence Service

Budget	\$31,905,000	\$21,577,352	\$29,212,000	\$19,756,076
Actual	\$33,710,000	\$22,798,073	\$30,957,000	\$20,936,219

1. The Waitangi Tribunal was established in 1975 by the Treaty of Waitangi Act 1975. The Tribunal is a permanent commission of inquiry charged with making findings and recommendations on Treaty claims brought by Maori relating to actions or omissions of the Crown. Unlike other Commissions of Inquiry which may be set up, legal aid is available for claimants appearing before the Waitangi Tribunal.
2. The object of the Duty Lawyer service is to ensure that a sufficient number of lawyers are available at each District Court for the purpose of assisting, advising, and representing unrepresented defendants charged with a criminal offence.

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3. The object of the Police Detention Legal Assistance service is to ensure a sufficient number of lawyers are available, at any time of the day or night, to provide legal advice, legal assistance, or both, to any unrepresented person who has been detained by the Police, with or without arrest.
4. The Family Legal Advice Service was established to enable the provision of initial advice and information for eligible parties in dispute over arrangements involving the care of their children.
5. Public funding for non-legal services is also available from other Ministry groups to assist parties to settle their disputes about care of children agreements without needing to attend court. These include a parenting education programme designed to help parents understand the effects of separation on their children, a mediation service where parties are enabled to work towards and reach care agreements that are in the best interests of their children and a service to which people may be referred to help people prepare for mediation so that they are better able to manage their feelings and focus on the children. These services are means tested, except for the parenting education programme which is free.

4. Scope, caseload and eligibility

Scope – criminal Criminal legal aid may be available to a natural person charged with or convicted of an offence, for appeals and for parole matters. It is not available for offences where the maximum penalty is a term of imprisonment of less than six months, unless the interests of justice require it. It is means tested and is only available where the defendant cannot afford a lawyer.

Scope – family/civil Legal aid may be granted to a natural person in respect of civil/family proceedings in a court and in certain administrative tribunals or judicial authorities.

It is not available in civil/family matters:

- at the application stage for care of children matters unless the proceedings are filed under urgency (without notice) or if permitted by a Judge
- for immigration matters unless it is an application for refugee/protected person status or the applicant is a holder of a residence permit.
- for marriage dissolution.

It is means tested and is only available where the defendant cannot afford a lawyer.

Volumes	Applications	2017/18	2016/17
	Civil/Family	20,861	21,299
	Criminal	64,301	64,148
	Grants	2017/18	2016/17
	Civil/Family	19,314	19,067
	Criminal	57,489	56,057

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Initial advice ¹	2017/18	2016/17
Duty lawyer service hours (excluding Public Defence Service)	118,519	117,573
Number of times Police Detention Legal Assistance advice was provided	10,230	10,137
Number of times Family Legal Advice Service was provided	4,621	4,348
Civil eligibility thresholds	Annual gross income ² \$NZD	Annual gross income \$USD
single applicant with no dependent children	\$23,820	\$16,109
single applicant with 1 dependent child, or an applicant with a spouse or partner and no dependent children	\$37,722	\$25,511
single applicant with 2 dependent children, or an applicant with a spouse or partner and 1 dependent child	\$54,245	\$36,686
single applicant with 3 dependent children, or an applicant with a spouse or partner and 2 dependent children	\$61,642	\$41,688
single applicant with 4 dependent children, or an applicant with a spouse or partner and 3 dependent children	\$77,002	\$52,076
single applicant with 5 dependent children, or an applicant with a spouse or partner and 4 dependent children	\$77,002	\$52,076
maximum level of disposable capital single applicant ³	\$3,500	\$2,367
maximum level of disposable if the applicant has a spouse or partner, or 1 or more dependent children	\$5,000	\$3,382
Criminal eligibility thresholds	Legal aid may be granted when the applicant does not have sufficient means to enable him or her to obtain legal assistance.	
Contributions	A \$50 (user charge) contribution is required in civil cases except for specified applications (eg protection order, compulsory mental health treatment order)	
Repayment	Legal aid is a loan that is repayable, except for specified cases (eg protection order, compulsory mental health treatment order). However, the amount repayable is calculated according to the customer's ability to pay and only around 25% are actually	

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	required to repay any amount.
Population	12% of the population met the civil eligibility thresholds in 2013.
Costs	<p>Unsuccessful legally aided parties in civil/family proceedings are not subject to an order to pay the other parties costs unless there are exceptional circumstances.</p> <p>However, the Court may make an order to benefit the successful opponent of a legally aided party that specifies the amount that would have been payable if the legally aided party's liability was not limited. The successful party may then apply to the Legal Services Commissioner for payment of that amount.</p>

1. There is no separate application and grant for initial advice. The Duty Lawyer service and the Police Detention Legal Assistance service are not means tested. Means testing for the Family Legal Advice Service is delegated to service providers who are not required to record applications of people who do not qualify.
2. The resources of the spouse are included for calculating eligibility.
3. Disposable capital includes an allowance of \$80,000 equity in a home, where the applicant is a home owner.

5. Quality Assurance

Provider approval	<p>You can only provide legal aid services if you have a New Zealand Law Society practising certificate, are approved by the Ministry and a valid contract with the Ministry. To be approved, you need to show that you have the relevant skills, experience and business systems to effectively represent your clients.</p> <p>There are separate approval standards for the following areas of law criminal, family, civil, mental health, refugee and protected persons, Māori Land Court and Māori Appellate Court, Waitangi Tribunal, Court of Appeal and Supreme Court, employment advocate (non-lawyers who are members of the Employment Law Institute of New Zealand can apply).</p> <p>Legal Service (Quality Assurance) Regulations 2011</p>
Selection committees	<p>All applications for lead provider approval will be referred to an area Selection Committee for their consideration and recommendation to the Ministry. A Selection Committee is a committee of local lawyers that is chaired by a representative of the Ministry.</p>
Audits & monitoring	<p>We conduct an annual programme of audits of legal aid lawyers to assess the quality and value of the services they deliver. Legal aid lawyers are selected for audit based on an assessment of their risk profile. Audits are performed by senior lawyers, both in-house and contracted.</p>
Complaints	<p>The Ministry has a formal complaints process for investigation of complaints about lawyer conduct or performance but may also refer complaints to the New Zealand Law Society.</p>
Performance review committee	<p>The performance review committee provides recommendations to the Ministry about the performance of legal aid providers who have been referred to them for consideration. The Committee consist of a chairperson who has at least 7 years legal experience and members who have expertise in the areas of law of any lawyer who is</p>

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referred to the Committee.

6. Public Legal Education

Community Law Centres

Through the Community Law Centres (CLC), New Zealanders can access free legal services and law-related education. CLCs provide assistance through websites, over the phone and at walk-in centres. They also undertake community engagement and deliver specialised legal services

The ministry contracts 24 CLCs to provide community legal services. The services include casework services (advice, assistance and representation), legal information, law-related education, and community engagement. CLCs improve New Zealanders' access to justice by focusing on early resolution and preventing legal problems from requiring litigation.

In 2017/18, CLCs saw 26,452 participants in law related education.

In 2017/18 the Ministry completed a review of CLC services in conjunction with CLCs and their national body Community Law Centres o Aotearoa. The purpose of the review was to develop options for a future CLC service that is sustainable.

7. Alternative sources of legal services

Pro bono

There is no obligation on New Zealand lawyers to carry out a certain amount of pro bono. Lawyers largely tend to carry out pro bono work at Community Law Centres (CLCs) and less so at Citizens Advice Bureaux (CABs). Lawyers may also volunteer their time and expertise directly, through an NGO or charity or even the local sports team. .

In 2017/18, CLCs helped 46,124 clients with legal advice.

The New Zealand Law Society is also working out a way in which in-house lawyers, who are not approved to practise on their own account, can provide pro bono assistance direct to the public without being in breach of the Act. This will require legislative change.

8. Holistic legal services

Alcohol and Other Drug Treatment Courts

Two Auckland area Alcohol and Other Drug Treatment Courts AODTC's have been operating as a pilot since 2012. Their aim is to funnel hardcore, repeat offenders with chronic drug and alcohol problems away from prison into intensive rehabilitation programmes to break the cycle of reoffending. People facing prison terms of up to three years are eligible, but offenders with convictions for violence, sexual or arson offences are not accepted.

50 people at any one time are in the programme at each court. There is no defended hearing, defendants must plead guilty. They are assessed to see if alcohol and drugs are causing them to offend. They must convince the court that they are willing to permanently change their lives to be accepted into the programme. 495 people have been accepted on the programme since it started, and about 40 percent have

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graduated.

An evaluation of the pilot that will determine whether the courts are funded on a permanent basis is being undertaken in 2019.

New Beginnings & Special Circumstances court

The New Beginnings Court Te Kooti o Timatanga Hou is aimed at homeless people in Auckland. The Special Circumstances Court is aimed at homeless people in Wellington. If you get accepted into one of these courts, you can get help to address issues in your life that contribute to your offending.

Rangatahi Courts & Pasifika Courts

Rangatahi Courts operate in the same way as the Youth Court, but are held on marae and follow Māori cultural processes. Pasifika Courts also operate in the same way as the Youth Court, but are held in Pasifika churches or community centres and follow Pasifika cultural processes. These Courts are designed to help young Māori and Pasifika young people to engage in the youth justice process. They are also designed to better involve Māori and Pasifika families and communities in the youth justice process. The courts work within the Youth Court legal structure. The same laws and consequences apply as they would in the Youth Court.

There are 15 Rangatahi Courts around the country, and two Pasifika Courts in Auckland.

The Rangatahi and Pasifika Courts are for young people who have admitted the charges they are facing. After a Family Group Conference (FGC) has decided on a plan for how the young person can take responsibility for what they did, as well as working out how to make sure the young person does not offend again, the FGC may recommend that the plan be monitored by the Rangatahi or Pasifika Court. This means that all Court appearances until the plan is completed will be held on the marae or at a Pasifika venue. Normally, the young person will appear at the Court every two weeks, and each hearing will usually involve the same Judge.

9. UN SDG Standard 16.3

High Impact Innovation Programme

[Department of Corrections-led initiative]

This is a cross-agency operational response to the rising demand on prison capacity. It will directly contribute to the Government's goals of reducing the prison population by 30 percent over 15 years and addressing the over representation of Māori in the criminal justice system.

The programme identifies, develops and implements operational initiatives that will directly impact the flows into and out of prison. It targets the operational constraints that delay bail applications and invest in support to ensure bail is successful, safe and sustainable, and improve the support provided to offenders being considered for parole.

Bail Support Services is one of these projects and has been running successful pilots in Wellington, Christchurch and Manukau Districts.

Bail Support Officers help provide impartial, evidence based, information to the court on the defendants' bail proposal and identify any social needs that could be addressed if in the community. Once a defendant is granted bail, Bail Support Officers have ongoing contact and support to ensure defendants are able to comply with their conditions and succeed on bail. Bail Support Officers may also facilitate access to

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agencies that can assist in this.

[source: Department of Corrections]
